

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

| | | |
|-----------------------------|---|------------------------------|
| LEON STAMBLER, | § | |
| | § | |
| Plaintiff, | § | |
| | § | |
| v. | § | CIVIL ACTION NO. 2:08-cv-204 |
| | § | |
| JPMORGAN CHASE & CO., et al | § | JURY TRIAL DEMANDED |
| | § | |
| Defendants. | § | |
| | § | |

PLAINTIFF'S FIRST AMENDED COMPLAINT

Plaintiff LEON STAMBLER files this First Amended Complaint against the above-named Defendants, alleging as follows:

I. THE PARTIES

1. Plaintiff LEON STAMBLER ("Stambler") is a citizen of the State of Florida. Stambler resides in Parkland, Florida.

2. JPMORGAN CHASE & CO. is a Delaware corporation with its principal place of business at 270 Park Avenue, 39th Floor, New York, New York 10017. This Defendant does business in the State of Texas and in the Eastern District of Texas through its Retail Financial Services operating segment and through its websites, including but not limited to www.chase.com. This Defendant has appeared and answered in this lawsuit.

3. JPMORGAN CHASE BANK, NATIONAL ASSOCIATION is a banking subsidiary of Defendant JPMorgan Chase & Co. with its principal place of business at 270 Park Avenue, New York, New York 10017. This Defendant does business in the State of Texas and in the Eastern District of Texas and has appeared and answered in this lawsuit.

4. BANK OF AMERICA CORPORATION is a Delaware corporation with its principal place of business at Bank of America Center, 100 North Tryon Street, Charlotte, North Carolina 28255. This Defendant does business in the State of Texas and in the Eastern District of Texas and has appeared and answered in this lawsuit. Bank of America Corp. owns and operates the website www.bankofamerica.com.

5. BANK OF AMERICA, NATIONAL ASSOCIATION is a banking subsidiary of Defendant Bank of America Corporation with its principal place of business at 100 North Tryon Street, Charlotte, North Carolina 28255. This Defendant does business in the State of Texas and in the Eastern District of Texas and has appeared and answered in this lawsuit.

6. CITIGROUP INC. is a Delaware corporation with its principal place of business at 399 Park Avenue, New York, New York 10022. This Defendant does business in the State of Texas and in the Eastern District of Texas and has appeared and answered in this lawsuit.

7. CITIBANK, N.A. is a banking subsidiary of Defendant Citigroup Inc. with its principal place of business at 399 Park Avenue, New York, New York 10022. This Defendant does business in the State of Texas and in the Eastern District of Texas and has appeared and answered in this lawsuit. Citibank, N.A. owns and operates the website www.citibank.com.

8. UBS FINANCIAL SERVICES INC. is a Delaware corporation with its principal place of business at 800 Harbor Boulevard, Weehawken, New Jersey 07086. This Defendant does business in the State of Texas and in the Eastern District of Texas and has appeared and answered in this lawsuit.

9. WACHOVIA CORPORATION is a North Carolina corporation with its principal place of business at One Wachovia Center, 301 South College Street, Charlotte, North Carolina 28288. This Defendant does business in the State of Texas and in the Eastern District of Texas

and has appeared and answered in this lawsuit. Wachovia Corporation owns and operates the website www.wachovia.com.

10. WACHOVIA BANK, NATIONAL ASSOCIATION is banking subsidiary of Defendant Wachovia Corporation with its principal place of business at 301 South Tryon Street, Charlotte, North Carolina 28288. This Defendant does business in the State of Texas and in the Eastern District of Texas and has appeared and answered in this lawsuit.

11. WELLS FARGO & COMPANY is a Delaware corporation with its principal place of business at 420 Montgomery Street, San Francisco, California 94163. This Defendant does business in the State of Texas and in the Eastern District of Texas and has appeared and answered in this lawsuit. Wells Fargo & Company owns and operates the website www.wellsfargo.com.

12. WELLS FARGO BANK, NATIONAL ASSOCIATION is a banking subsidiary of Defendant Wells Fargo & Co. with its principal place of business at 420 Montgomery Street, San Francisco, California 94163. This Defendant does business in the State of Texas and in the Eastern District of Texas and has appeared and answered in this lawsuit.

13. BANCORPSOUTH BANK is a banking subsidiary of Defendant BancorpSouth, Inc. with its principal place of business at One Mississippi Plaza, 201 South Spring Street, Tupelo, Mississippi 38804. This Defendant does business in the State of Texas and in the Eastern District of Texas and has appeared and answered in this lawsuit. BancorpSouth Bank owns and operates the website www.bancorpsouthonline.com.

14. BOK FINANCIAL CORPORATION is an Oklahoma corporation with its principal place of business at Bank of Oklahoma Tower, P.O. Box 2300, Tulsa, Oklahoma 74192. This Defendant does business in the State of Texas and in the Eastern District of Texas. BOK Financial Corporation owns and operates the website www.bankoftexas.com.

15. BANK OF TEXAS, N.A. is a banking subsidiary of Defendant BOK Financial Corporation with its principal place of business at 5956 Sherry Lane, Dallas, Texas 75225. This Defendant does business in the State of Texas and in the Eastern District of Texas.

16. COMERICA INCORPORATED is a Delaware corporation with its principal place of business at Comerica Bank Tower, 1717 Main Street, Dallas, Texas 75201. This Defendant does business in the State of Texas and in the Eastern District of Texas and has appeared and answered in this lawsuit. Upon information and belief, Comerica Incorporated owns and operates the website www.comerica.com.

17. COMERICA BANK is a banking subsidiary of Defendant Comerica Incorporated with its principal place of business at Comerica Bank Tower, 1717 Main Street, Dallas, Texas 75201. This Defendant does business in the State of Texas and in the Eastern District of Texas and has appeared and answered in this lawsuit.

18. COMPASS BANCSHARES, INC. is a Delaware corporation with its principal place of business at 701 South 20th Street, Birmingham, Alabama 35233. This Defendant does business in the State of Texas and in the Eastern District of Texas and has appeared and answered in this lawsuit.

19. COMPASS BANK is a banking subsidiary of Defendant Compass Bancshares, Inc. with its principal place of business at 15 South 20th Street, Birmingham, Alabama 35233. This Defendant does business in the State of Texas and in the Eastern District of Texas and has appeared and answered in this lawsuit. Compass Bank owns and operates the website www.compassbank.com.

20. FIRST HORIZON NATIONAL CORPORATION is a Tennessee corporation with its principal place of business at 165 Madison Avenue, Memphis, Tennessee 38103. This

Defendant does business in the State of Texas and in the Eastern District of Texas and has appeared and answered in this lawsuit.

21. FIRST TENNESSEE BANK NATIONAL ASSOCIATION is banking subsidiary of Defendant First Horizon National Corporation with its principal place of business at 4385 Poplar, Memphis, Tennessee 38117. This Defendant does business in the State of Texas and in the Eastern District of Texas through, at least, its First Horizon Bank division. This Defendant has appeared and answered in this lawsuit.

22. FIRST TENNESSEE NATIONAL CORPORATION is a Tennessee corporation with its principal place of business at 165 Madison Avenue, Memphis, Tennessee 38103. This Defendant does business in the State of Texas and in the Eastern District of Texas through, at least, one or more websites, including but not limited to www.firsthorizon.com. This Defendant has appeared and answered in this lawsuit.

23. CULLEN/FROST BANKERS, INC. is a Texas corporation with its principal place of business at 100 West Houston Street, San Antonio, Texas 78205. This Defendant does business in the State of Texas and in the Eastern District of Texas and has appeared and answered in this lawsuit.

24. THE FROST NATIONAL BANK is a banking subsidiary of Defendant Cullen/Frost Bankers, Inc. with its principal place of business at 100 West Houston Street, San Antonio, Texas 78205. This Defendant does business in the State of Texas and in the Eastern District of Texas and has appeared and answered in this lawsuit. This Defendant owns and operates the website www.frostbank.com.

25. GUARANTY FINANCIAL GROUP INC. is a Delaware corporation with its principal place of business at 1300 South Mopac Expressway, Floor 3N, Austin, Texas 78746.

This Defendant does business in the State of Texas and in the Eastern District of Texas and has appeared and answered in this lawsuit.

26. GUARANTY BANK is a banking subsidiary of Defendant Guaranty Financial Group, Inc. with its principal place of business at 1300 South Mopac Expressway, Austin, Texas 78746. This Defendant does business in the State of Texas and in the Eastern District of Texas and has appeared and answered in this lawsuit.

27. PLAINS CAPITAL CORPORATION is a Texas corporation with its principal place of business at 5010 University Avenue, Lubbock, Texas 79413. This Defendant does business in the State of Texas and in the Eastern District of Texas and has appeared and answered in this lawsuit.

28. PLAINSCAPITAL BANK is a banking subsidiary of Defendant Plains Capital Corporation with its principal place of business at 5010 University Avenue, Lubbock, Texas 79413. This Defendant does business in the State of Texas and in the Eastern District of Texas and has appeared and answered in this lawsuit. This Defendant owns and operates the website www.plainscapital.com.

29. REGIONS FINANCIAL CORPORATION is a Delaware corporation with its principal place of business at 1900 Fifth Avenue North, Birmingham, Alabama 35203. This Defendant does business in the State of Texas and in the Eastern District of Texas and has appeared and answered in this lawsuit. This Defendant owns and operates the website www.regions.com.

30. REGIONS BANK is a banking subsidiary of Defendant Regions Financial Corporation with its principal place of business at 417 North 20th Street, Suite 1200, Birmingham, Alabama 35203. This Defendant does business in the State of Texas and in the Eastern District of Texas and has appeared and answered in this lawsuit.

II. JURISDICTION AND VENUE

31. This is an action for infringement of two United States patents arising under 35 U.S.C. §§ 271, 281, and 284-285, among others. This Court has subject matter jurisdiction of the action under Title 28 U.S.C. §1331 and §1338(a).

32. The Court has general and specific personal jurisdiction over each Defendant, and venue is proper pursuant to 28 U.S.C. §§ 1391 and 1400(b). Each Defendant has substantial contacts with the forum as a result of business conducted within the State of Texas and within this District. Specifically, each Defendant maintains a physical presence within this District, including at least one banking location, and/or conducts business with customers residing in this District through its interactive website(s), which website(s) provide secure online banking services. Additionally each Defendant has committed and continues to commit acts of patent infringement in this State and this District by operating a system for providing secure online banking, including online bill pay and other funds transfer services, to consumers in Texas and, particularly, the Eastern District.

III. PATENT INFRINGEMENT

33. On August 11, 1998, United States Patent No. 5,793,302 (“the ‘302 patent”) was duly and legally issued for a “Method for Securing Information Relevant to a Transaction.” A true and correct copy of the ‘302 patent is attached hereto as Exhibit “A.” On October 26, 1999, United States Patent No. 5,974,148 (“the ‘148 patent”) was duly and legally issued for a “Method for Securing Information Relevant to a Transaction.” A true and correct copy of the ‘148 patent is attached hereto as Exhibit “B.” (The ‘302 and ‘148 patents are collectively referred to herein as “the patents-in-suit”). Stambler is the inventor and owner of all rights, title, and interest in and to the patents-in-suit and possesses all rights of recovery under them.

34. Defendants have infringed and continue to infringe, directly, contributorily, and/or through the inducement of others, the patents-in-suit by provision of their respective secure online banking services, including but not limited to online bill pay and other secure funds transfer services, in accordance with the claimed methods.

35. Stambler has been damaged as a result of Defendants' infringing conduct. Defendants are, thus, liable to Stambler in an amount that adequately compensates him for their infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

36. Upon information and belief, Defendants are aware of the patents-in-suit, have knowledge of the infringing nature of their activities, have nevertheless continued their infringing activities, and their infringing activities have been and continue to be willful. Specifically, the Chase, Bank of America, Citi, Wachovia, Wells Fargo, and Regions Defendants were previously provided written notice of the patents-in-suit.

37. Each Defendant's infringements of Stambler's rights under the patents-in-suit will continue to damage Stambler, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

IV. JURY DEMAND

Stambler hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

V. PRAYER FOR RELIEF

Stambler requests that the Court find in his favor and against Defendants, and that the Court grant Stambler the following relief:

- a. Judgment that one or more claims of United States Patent Nos. 5,793,302 and 5,974,148 have been infringed, either literally and/or under the doctrine of equivalents, by one or more Defendants and/or by others to whose infringement Defendants have contributed and/or by others whose infringement has been induced by Defendants;
- b. Judgment that Defendants account for and pay to Stambler all damages to and costs incurred by Stambler because of Defendants' infringing activities and other conduct complained of herein;
- c. That Defendants' infringements be found to be willful from the time that Defendants became aware of the infringing nature of their respective products and services, which is the time of filing of Plaintiff's Original Complaint at the latest, and that the Court award treble damages for the period of such willful infringement pursuant to 35 U.S.C. § 284;
- d. A grant of permanent injunction pursuant to 35 U.S.C. § 283, enjoining the Defendants from further acts of infringement;
- e. That Stambler be granted pre-judgment and post-judgment interest on the damages caused by Defendants' infringing activities and other conduct complained of herein;
- f. That this Court declare this an exceptional case and award Stambler his reasonable attorney's fees and costs in accordance with 35 U.S.C. § 285; and
- g. That Stambler be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: August 15, 2008.

Respectfully submitted,

/s/ Brent N. Bumgardner
Texas State Bar No. 00795272
Attorney-in-Charge
Edward R. Nelson, III
Texas State Bar No. 00797142
Barry J. Bumgardner
Texas State Bar No. 00793424
Edward E. Casto, Jr.
Texas State Bar No. 24044178
Christie B. Lindsey
Texas State Bar No. 24041918
NELSON BUMGARDNER CASTO, P.C.
5601 Bridge Street, Suite 300
Fort Worth, Texas 76112
(817) 377-9111
(817) 377-3485 (fax)
bbumgardner@nbclaw.net
enelson@nbclaw.net
barry@nbclaw.net
ecast@nbclaw.net
clindsey@nbclaw.net

Eric M. Albritton
Texas State Bar No. 00790215
ALBRITTON LAW FIRM
P.O. Box 2649
Longview, TX 75606
(903) 757-8449
(903) 758-7397 (fax)
ema@emafirm.com

T. John Ward, Jr.
Texas State Bar No. 00794818
WARD & SMITH LAW FIRM
111 W. Tyler Street
Longview, Texas 75601
(903) 757-6400
(903) 757-2323 (fax)
jw@jwfirm.com

Ronald A. Dubner
Texas State Bar No. 06149000
4965 Preston Park, Suite 560
Plano, Texas 75093
(972) 964-6500
(972) 964-6533 (fax)
rondub@gte.com

**ATTORNEYS FOR PLAINTIFF
LEON STAMBLER**

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of August, 2008, I electronically filed the foregoing document with the clerk of the court for the U.S. District Court, Eastern District of Texas, Marshall Division, using the electronic case filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to the attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means.

/s/ Brent N. Bumgardner